



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/7655,853	05/30/96	MCMASTER	H GLT-1540-R

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IM31/0222

EXAMINER

GRIFFIN,S

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 02/22/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/655,853	Applicant(s) McMaster et al.
	Examiner Steven P. Griffin	Group Art Unit 1731

Responsive to communication(s) filed on 11-9-98 and 1-5-98

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-16 and 27-29 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-16 and 27-29 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on Nov 9, 1998 is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 11-9-98 have been approved.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 27-29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 27 has no support for moving or changing the position of a surface of the quench tubes so as to conform to the glass sheet which is intended to be tempered. The glass sheet is either tempered in the flat condition as received, and thus there are no means as specified in claim 27, or the flat sheet is bent using the disclosed apparatus prior to tempering. The sheet must be received by the apparatus in a flat, heated condition for bending prior to tempering of the bent glass sheet in place, i.e. bending is essential for enabling tempering with the apparatus when

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the platens are in a deformed state. As claim 27 is written there is no indication that the movement of the quench tubes is while the glass sheet is being bent and the glass sheet is between the upper and lower quench tubes during this movement as is provided for in the specification as filed, there is no enablement for a stand alone tempering apparatus which moves to conform to the shape of a bent glass sheet.

Claim 28, line 16-17, the recitation "as the wheels engage and bend the glass sheet to distribute the bending forces" is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention as the invention as filed fails to provide for the wheels to "bend the glass sheet to distribute the bending forces" as is recited. Claim 28 also appears to recite that the lower and upper opposed deformable platens and the recited quench section including lower and upper sets of opposed elongated quench tubes are separate of the apparatus which can not work on a glass sheet at the same time, this is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, the determination that the lower and upper platens and the lower and upper sets of quench tubes are separate has been made because the claim provides no nexus between the two thus it is considered that they are not related and do not work on the glass at the same time. Claim 28, lines 21-22, the recitation "and also having drive wheels supported on the deformable drive shafts" is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the

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inventor(s), at the time the application was filed, had possession of the claimed invention, because the specification fails to provide for both the upper and lower sets of quench tubes to have drive shafts and drive wheels as this appears to be reciting.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-16, 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6, line 4, claim 9, lines 2-3, 4 and 7, claim 15, line 26, and claim 16, lines 20-21 and 35, "said upper platen" lacks antecedent basis.

Claim 7, lines 1-2 and 6, "the lower platen" lacks antecedent basis.

Claim 8, lines 1-2 and 5, claim 9, lines 1-2, "the upper platen" lacks antecedent basis.

Claim 6, line 12, claim 15, line 19, and claim 16, line 27, "said lower platen" lacks antecedent basis.

Claim 7, lines 8-9, claim 11, line 3, claim 15, line 25, and claim 16, lines 33-34, "the bending and quenching" lacks antecedent basis as the there is no basis for quenching, there is basis for --tempering--.

Claim 28, line 12, the use of the term "bent" appears incorrect as it is believed that the platen is --deformed-- rather than bent. Claim 28, lines 21-24, the recitation of "deformable drive shafts", "drive wheels", and "actuating means" are not clear if these they are different from or the

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same as the previously recited deformable drive shafts, drive wheels and actuating means of the claim as no nexus between them has been provided, if they are the same a nexus should be provided. Claim 28, line 29, "temper quench" is unclear as to what it means, it is believed that "quench" should be deleted. Claim 28, line 31, "the drive wheels" is unclear which of the recited drive wheels it is referring to, the drive wheels recited with the lower platen or the drive wheels recited with the lower and upper sets of quench tubes. Claim 28, line 32, "the bending and quenching" lacks antecedent basis as there is no basis for quenching in the claim, there is basis for --tempering--.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Bocelli et al 4,540,425 (Bocelli '425).

Bocelli '425 discloses an apparatus for bending glass sheets comprising a first platen (see the lower portion of the apparatus in Figs. 1-3) which receives glass sheets, includes actuator means which moves portions of the first platen a specific distance to deform the platen, and has openings in nozzles (17) which form a part of the first platen and are movable with the

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deformation of the first platen, Bocelli '425 also discloses the apparatus as having a second platen (see the upper portion of the apparatus in Figs. 1-6) with nozzles (18) and a means (23, 24) for supplying quench gas to the first and second quench openings.

Reissue Oath/Declaration

8. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

It fails to provide a statement regarding the amendments filed after the last filed declaration (i.e. the amendments of 1-5-98 and 11-9-98) that every error being corrected by the amendments arose without deceptive intention on the part of the applicant.

9. Claims 1-16 and 27-29 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the oath/declaration is set forth in the discussion above in this Office action.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

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Response to Arguments

10. Applicant's arguments filed 1-5-98 and 11-9-98 have been fully considered but they are not deemed to be persuasive. It is argued that Bocelli does not disclose or suggest any movement of the rolls to a different shape while the glass is being processed therebetween. This argument is not deemed persuasive as it is considered that claim 1 fails to provide for any movement of rolls or the platen to a different shape while glass is being processed therebetween as applicant appears to be suggesting, and it is also considered that the instant claims are drawn to an apparatus structure and not to a method of making a bent glass sheet. Further note, that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

11. The rejection of claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Bocelli '425 has been reconsidered and is hereby withdrawn.

Conclusion

12. Applicant is reminded of the continuing obligation under 37 CFR 1.56 to timely apprise the Office of any litigation information, or other prior or concurrent proceeding, involving Patent No. 4,883,527, which is material to patentability of the claims under consideration in this reissue application. This obligation rests with each individual

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associated with the filing and prosecution of this application for reissue. See MPEP §§ 1404, 1442.01 and 1442.04.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P. Griffin whose telephone number is (703) 308-1164. The examiner can normally be reached on Monday-Thursday from 6:30 AM-4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stan Silverman, can be reached on (703) 308-3837. All official faxes for this Group should be directed to fax phone numbers (703) 305-3599 or 7718, any unofficial faxes should be directed to fax phone number (703) 305-7115.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.


STEVEN P. GRIFFIN
PRIMARY EXAMINER
ART UNIT 1731
2-9-99

SPG
February 9, 1999